

**207.210 Administrative complaint procedure -- Types of affirmative action.**

- (1) If the employer, labor organization, or employment agency continues to refuse employment to the aggrieved individual, the aggrieved individual may file a formal administrative complaint with the Department of Workplace Standards and, upon that filing, the commissioner of workplace standards or his representative shall conduct an administrative hearing in accordance with KRS Chapter 13B.
- (2) If the Department of Workplace Standards determines that the employer, labor organization, or employment agency has not engaged in an unfair employment practice, it shall after the hearing issue a final order dismissing the complaint.
- (3) If the Department of Workplace Standards determines that the employer, labor organization, or employment agency has engaged in an unfair employment practice, the department shall issue a final order requiring the employer, labor organization, or employment agency to cease and desist from the unlawful practice and to take affirmative action as in the judgment of the department will carry out the purposes KRS 207.130 to 207.240.
- (4) Affirmative action ordered under this section may include, but is not limited to:
  - (a) Hiring, reinstatement, or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the aggrieved individual shall operate to reduce the back pay otherwise allowable;
  - (b) Admission or restoration of the aggrieved individual to union membership, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to these programs;
  - (c) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the employer;
  - (d) Reporting as to the manner of compliance;
  - (e) Posting notices in conspicuous places in the employer's place of business in form prescribed by the Department of Workplace Standards.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 306, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 318, sec. 99, effective July 15, 1996. -- Amended 1984 Ky. Acts ch. 414, sec. 6, effective July 13, 1984. --Created 1976 Ky. Acts ch. 280, sec. 10.